

SECRET

000-411

OGC HAS REVIEWED.

21 October 1949

Office of General Counsel

Procurement of Rubber Boots and Raincoats for use of
Guards on [REDACTED] Station

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1. Your memorandum of 14 October 1949 raised the question of whether this Agency possesses authority to purchase protective clothing for the use of guards on [REDACTED] during the rainy season. Our attention was invited to Section 13 of P.L. 600, and to the following decisions of the Comptroller General: 2-256, 3-433, 5-413, 6-33, 11-217 and 23-631.

2. Prior to the passage of P.L. 600, the general rule was that protective clothing was a "private furnishing" which was the personal expense of the employee and could not be paid by the Government. In an early decision (3 Comp. Gen. 433) the Comptroller General set up two guides to a proper answer:

(1) Can the object of the appropriation be accomplished expeditiously and satisfactorily without the clothing?

(2) Is the clothing part of the equipment which the employee should be required to furnish in view of the regular duties of his work?

Laboratory coats furnished to chemists were thus considered protection to a person in the course of his regular duties and were held a personal expense. In the case of a telephone amplifying device to assist employees with deficient hearing, however, procurement was considered for the benefit of the Government and not for the exclusive use of the employee, and payment was authorized. Some further deviation from the general rule was allowed in the purchase of rubber boots for small portions of transient workers engaged in outdoor work which required their presence on wet ground or in water. In the latter cases, the Comptroller took particular pains to condition his approval on the transient nature of the workers and the fact that the boots were not used by regular employees in the performance of special duties for which their services were engaged. Apparently the only situation in which the question has arisen since the passage of P.L. 600 is found in unpublished opinion B-62261 of December 27, 1940. The question was raised by the Secretary of State in the administration of the Philippine Rehabilitation Act and the answer is of no value since the Comptroller predicates his finding on the fact that Philippine trainees are not "employees of the United States."

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3. In view of the above, it is somewhat tenuous but we believe that the purchase of the boots and raincoats can be justified on the basis that the job could not be satisfactorily performed without them, and it is not part of any special equipment which the employee should be required to furnish for continued use in the course of his regular duties. Rain is an unusual rather than a normal condition of employment, and it certainly appears to be in the interest of the Government to provide protective clothing which would insure the continued and unimpeded vigilance of the guards. We would suggest, however, that the coats and boots be kept on station for the use of the guard detail as a unit and not be assigned to individuals under custody cards for the entire period of their employment.

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cc: Subject
Chrono
Legal Decisions

Encl. 2

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1. Memo dtd 5 Oct. 1949 from Chief
2. Memo dtd 6 Sept. 1949 from Chief,

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